

was relied upon as showing an electrosurgical device that includes jaw members biased in a clamped position by a spring.

In addition, Claims 2-4 were rejected under 35 U.S.C. 112 as being indefinite. Specifically, Claim 2 was rejected as lacking an antecedent basis for the reference to "the drive member." The new claims are believed to overcome the rejection under 35 U.S.C. 112, and the remainder of this response will be devoted to the rejection under 35 U.S.C. 103.

In response to the rejection under Section 103, new independent Claim 9 has been added. Claim 9 is directed to a device for clamping and ablating cardiac tissue to form transmural lesions therein. The jaws of the claimed ablation device are parallel in a range of movement between the open and closed positions. At least one of the jaws is biased toward the clamped position such that the biasing force increases as the separation of the jaws increases.

An example of the structure referred to in Claim 9 may be seen in Figures 36 and 37 and is described, in part, in Paragraph 118 on Page 29 of the specification. As described therein, the illustrated device includes a lost motion assembly in which the pressure exerted by the spring 156 is controlled between a minimum and maximum force based on the compression of the spring, i.e., by the tissue thickness, and this is independent of the operator force applied to handle 148. The important benefit of this feature is that the pressure applied to the tissue can be pre-selected

depending upon the thickness of the tissue, and that variability of the clamping pressure due to the doctor's hand strength, pressure or grip is avoided once the device is set in the locked position.

The combination of (1) jaws that are generally parallel in a range of jaw movement, and (2) a biasing force that increases with jaw separation, allows cardiac tissue to be clamped with a predictable force based on the tissue thickness, with a generally uniform application of the force along the jaw.

The claimed apparatus, including the feature now recited in the claims is not shown or suggested in either the Burnside '281 patent or the Chen '249 patent, alone or in combination. The office action refers specifically to Figure 15 of the Chen patent, which shows a spring 942 biasing the jaws to a closed position. However, in Chen, unlike the present invention, spring 942 appears to be essentially for holding the anvils in a normally closed position when the handles are not being squeezed by the operator, and the principal force that is applied to any tissue clamped between the anvil surfaces is the force exerted by the operator on the wire member 978.

The Burnside '281 patent also does not disclose this feature of Claim 9, but instead appears to require the operator to apply force needed for the coagulating/sealing process disclosed there. In the present invention, an objective is to form relatively narrow transmural lesion lines. Control of the pressure that the instrument exerts on the clamped cardiac tissue permits better

control of the ablation. Burnside discloses no such purpose, function or effect.

Burnside also does not teach or suggest ablation jaws that are parallel in a range of movement between open and clamped positions. This feature enhances uniform clamping of the tissue and a more uniform application of pressure on the tissue clamped between the jaws.

Although it is known to employ lost motion features in tissue sealing instruments, such as that shown in U.S. Patent No. 5,776,130, which is of record in this application, Applicant submits that the prior art does not disclose or suggest the unique combination of features of Claim 9 and, particularly, does not show or suggest such features in a device for ablating lesion lines in cardiac tissue as claimed.

For the above reasons, it is respectfully submitted that the claims of this application, as now amended, are not described or suggested by the cited references, and reexamination and allowance are respectfully requested.

Respectfully submitted,

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